

BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE

May 28, 2003

IN RE:

**MOTION FOR WAIVER OF UNITED
TELEPHONE-SOUTHEAST, INC.**

**DOCKET NO.
03-00281**

ORDER DENYING MOTION

This matter came before Chairman Sara Kyle, Director Deborah Taylor Tate, and Director Ron Jones of the Tennessee Regulatory Authority (the "TRA" or "Authority"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on April 24, 2003 to consider the *Motion for Waiver* (the "*Motion*") of United Telephone-Southeast, Inc. ("UTSE") filed with the TRA on March 21, 2003.

Background

Under the current version of Tenn. Comp. R. & Regs. 1220-4-1-.10(2)(a), telephone utility companies subject to the jurisdiction of the TRA as set forth in Tenn. Code Ann. § 65-4-101 are required to file either monthly or quarterly reports with the TRA according to the following criteria:

- (1) [Companies] which are either a subsidiary of a holding company or have in excess of 6,000 access lines shall submit monthly to this [Authority] Monthly Report Form 3.01 within sixty (60) days after the end of the month covered by the report. . .
- (2) [Companies] which are not a subsidiary of a holding company and have less than 6,000 access lines shall submit quarterly to this [Authority] Quarterly Report Form 3.02 within sixty (60) days after the end of the quarter covered by the report. . .

On June 11, 2002, the TRA approved a petition by BellSouth Telecommunications, Inc. ("BellSouth"), UTSE, and Citizens Telecommunications Company of Tennessee ("Citizens") in Docket No. 02-00642 to commence a rulemaking procedure to amend Tenn. Comp. R. & Regs.

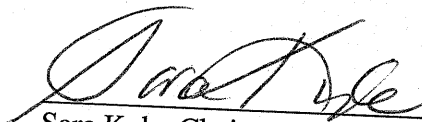
1220-4-1-.10(2)(a) for the purpose of allowing the filing of annual reports by companies subject to price regulation under Tenn. Code Ann. § 65-5-209. Following the public hearing required by Tenn. Code Ann. § 4-5-202(a), this change was incorporated into a proposed new subsection (3), a modification of which was approved by the TRA at the February 18, 2003 Authority Conference for purposes of clarification. Pursuant to this pending amendment of TRA Rule 1220-4-1-.10(2)(a), UTSE filed its motion in this docket on March 21, 2003. BellSouth filed comments in support of the *Motion* on April 2, 2003.

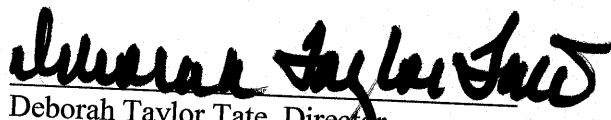
The April 24, 2003 Authority Conference

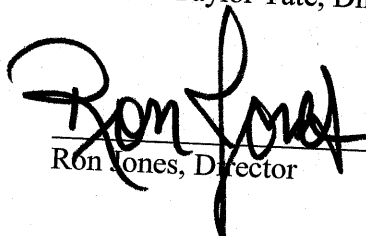
At the regularly scheduled Authority Conference on April 24, 2003, the Directors voiced concern that, while the proposed amendment to Tenn. Comp. R. & Regs. 1220-4-1-.10(2)(a) had been approved by the TRA, the rule as amended had not yet been approved by the Attorney General's Office as required by Tenn. Code Ann. § 4-5-211. Notwithstanding the TRA's authority to waive its own rules under appropriate circumstances, a waiver of the monthly filing requirement at this juncture could amount to a circumvention of the rulemaking procedure. For these reasons, the Directors voted unanimously to deny UTSE's motion.

IT IS THEREFORE ORDERED THAT:

The *Motion for Waiver* of UTSE is hereby denied.


Sara Kyle, Chairman


Deborah Taylor Tate, Director


Ron Jones, Director